

1 KEVIN V. RYAN (CSBN 118321)  
2 United States Attorney

3 MARK L. KROTKOFSKI (CSBN 138549)  
4 Chief, Criminal Division

5 GREGG W. LOWDER (CSBN 107864)  
6 Assistant United States Attorney

7 450 Golden Gate Avenue, Box 36055  
8 San Francisco, California 94102  
9 Telephone: (415) 436-7044  
10 Fax: (415) 436-7234

11 Attorneys for the Plaintiff

12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN FRANCISCO DIVISION

15 UNITED STATES OF AMERICA, )  
16 Plaintiff, ) No. CR 01-0149 MJJ  
17 v. )  
18 ACIE L. MATHEWS, et al., )  
19 Defendants. )

20 UNITED STATES OF AMERICA, )  
21 Plaintiff, ) No. CR 04-0083 MJJ  
22 v. )  
23 JAMES HILL, et. al., )  
24 Defendants. ) STIPULATION AND [PROPOSED] ORDER  
25 VACATING THE *DAUBERT* EVIDENTIARY  
26 HEARINGS CURRENTLY SET FOR  
27 DECEMBER 13 AND 14, 2006, AND  
28 SETTING DECEMBER 13, 2006 FOR  
STATUS CONFERENCE, IN LIGHT OF  
RECENT DEVELOPMENTS

29 The United States of America, through Gregg W. Lowder, Assistant United States  
30 Attorney, and the defendants James Hill, David George, Trearl Malone and Kenyana Jones,  
31 through their counsel, jointly request that the Court enter an order vacating the *Daubert* gang  
32 expert hearing currently set for December 13<sup>th</sup> and 14<sup>th</sup> and maintain December 13, 2006 at 9:00  
33 a.m. as a status conference date, in order to permit the parties sufficient time to address a potential  
34

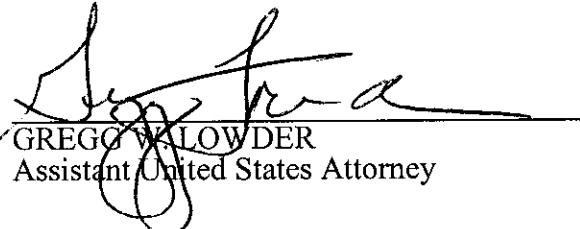
1 resolution of the case; to permit time for further necessary preparation for the *Daubert* hearings,  
2 specifically to obtain and analyze the gang expert testimony of the government's central *Daubert*  
3 gang expert, who just completed multiple days of testimony as a gang expert on Westmob in a  
4 local ongoing police officer homicide jury trial; to permit the receipt and analysis of potential  
5 further testimony regarding Westmob in the same ongoing jury trial; and to permit reasonable  
6 time for the effective preparation of newly appointed counsel for defendant Kenyana Jones, so  
7 that he may competently represent his client. More specifically, the parties request a continuance  
8 for all of the following reasons:

- 9 • The parties have begun settlement discussions, following the capital penalty  
10 mitigation presentations, and it is anticipated that a potential settlement position  
11 may arise out of discussions to be conducted in the next week, and parties request a  
12 reasonable continuance of the *Daubert* hearings to permit sufficient time to allow  
13 parties to turn their time and efforts immediately to this task instead of towards  
14 preparation for the *Daubert* hearing;
- 15 • The central government *Daubert* gang expert, SFPD Inspector Toney Chaplin, has  
16 recently testified as a gang expert on Westmob over the course of three days,  
17 ending last week, in the San Francisco police officer homicide trial of *People v.*  
18 *David Hill*; the parties believe this testimony is directly relevant to all witnesses  
19 and subjects in the presently set *Daubert* hearing; and the transcripts have been  
20 ordered and will be produced next week, but all parties will need additional time to  
21 analyze the transcripts before the *Daubert* hearing on December 13 and 14;
- 22 • The same jury trial, *People v. David Hill*, is anticipated to produce potentially  
23 additional testimony in the next two weeks that will bear directly on the subjects of  
24 our *Daubert* hearing; and
- 25 • this case has been deemed a complex case, in which there are over 30,000 pages of  
26 discovery, and the current attorney for Kenyana Jones was just appointed  
27 approximately one month ago and needs additional time to prepare for the *Daubert*  
28 hearing in order to effectively represent his client.

1 For the above reasons, the parties request the *Daubert* hearings of December 13 and 14,  
2 2006 be vacated at this time and a status conference [REDACTED] be set at on December 13 at [REDACTED]  
3 [REDACTED] 11:00 a.m. Status Statement due 12/11/2006.

4 SO STIPULATED:

5 Dated: 11/30/06

  
6 GREGG MALOWDER  
7 Assistant United States Attorney

8 Dated: \_\_\_\_\_

9 RICHARD MAZER  
10 WILLIAM OSTERHOUDT  
11 Attorneys for Defendant James Hill

12 Dated: \_\_\_\_\_

13 GAIL SHIFMAN  
14 MICHAEL BURT  
15 Attorneys for Defendant David George

16 Dated: \_\_\_\_\_

17 J. FRANK McCABE  
18 Attorney for Defendant Trearl Malone

19 Dated: \_\_\_\_\_

20 ERIC QUANDT  
21 Attorney for Defendant Kenyana Jones

22 IT IS SO ORDERED:

23 Dated: 12/1/2006

  
24 MARTIN J. JENKINS  
25 United States District Judge

26

27

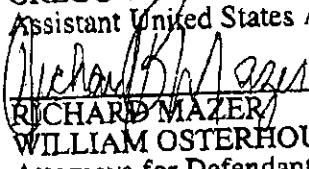
28

1 For the above reasons, the parties request the *Daubert* hearings of December 13 and 14,  
2 2006 be vacated at this time and a status conference statement be set at on December 13 at 9:00  
3 a.m.

4 SO STIPULATED:

5 Dated: \_\_\_\_\_

GREGG W. LOWDER  
Assistant United States Attorney

  
RICHARD MAZER  
WILLIAM OSTERHOUDT  
Attorneys for Defendant James Hill

6 Dated: \_\_\_\_\_

GAIL SCHIFMAN  
MICHAEL BURT  
Attorneys for Defendant David George

7 Dated: \_\_\_\_\_

J. FRANK McCABE  
Attorney for Defendant Trearl Malone

8 Dated: \_\_\_\_\_

ERIC QUANDT  
Attorney for Defendant Kenyana Jones

9 IT IS SO ORDERED:

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

14 DATED: \_\_\_\_\_  
15 MARTIN J. JENKINS  
16 United States District Judge

Case 03:04-cr-00833-JEM Document 8283 Filed 12/01/2006 Page 4 of 7

1 For the above reasons, the parties request the *Daubert* hearings of December 13 and 14,  
2 2006 be vacated at this time and a status conference statement be set at on December 13 at 9:00  
3 a.m.

4 SO STIPULATED:

5 Dated: \_\_\_\_\_

6 GREGG W. LOWDER  
7 Assistant United States Attorney

8 Dated: \_\_\_\_\_

9 RICHARD MAZER  
10 WILLIAM OSTERHOUDT  
11 Attorneys for Defendant James Hill

12 Dated: 11-30-06

13 GAIL SCHIFMAN  
14 MICHAEL BURT  
15 Attorneys for Defendant David George

16 Dated: \_\_\_\_\_

17 J. FRANK McCABE  
18 Attorney for Defendant Trearl Malone

19 Dated: \_\_\_\_\_

20 ERIC QUANDT  
21 Attorney for Defendant Kenyana Jones

22 IT IS SO ORDERED:

23 Dated: \_\_\_\_\_

24 MARTIN J. JENKINS  
25 United States District Judge

26

27

28

Case 04-0083 MJ Document 28283 Filed 12/01/2006 Page 6 of 7

1 For the above reasons, the parties request the *Daubert* hearings of December 13 and 14,  
2 2006 be vacated at this time and a status conference statement be set at on December 13 at 9:00  
3 a.m.

4 SO STIPULATED:

5 Dated: \_\_\_\_\_

6 GREGG W. LOWDER  
7 Assistant United States Attorney

8 Dated: \_\_\_\_\_

9 RICHARD MAZER  
10 WILLIAM OSTERHOUDT  
11 Attorneys for Defendant James Hill

12 Dated: \_\_\_\_\_

13 GAIL SCHIFMAN  
14 MICHAEL BURT  
15 Attorneys for Defendant David George  
16 *Frank Vlach*

17 Dated: 11/30/06

18 J. FRANK McCABE  
19 Attorney for Defendant Trearl Malone

20 Dated: \_\_\_\_\_

21 ERIC QUANDT  
22 Attorney for Defendant Kenyana Jones

23 IT IS SO ORDERED:

24 Dated: \_\_\_\_\_

25 MARTIN J. JENKINS  
26 United States District Judge

approximately one month ago and needs additional time to prepare for the Daubert hearing in order to effectively represent his client.

For the above reasons, the parties request the Daubert hearings of December 13 and 14, 2006 be vacated at this time and a status conference statement be set on December 13 at 9:00 a.m.

SO STIPULATED:

Dated: \_\_\_\_\_ GREGG W. LOWDER \_\_\_\_\_  
Assistant United States Attorney

Dated: \_\_\_\_\_ RICHARD MAZER \_\_\_\_\_  
WILLIAM OSTERHOUT  
Attorneys for Defendant James Hill

Dated: \_\_\_\_\_ GAIL SCHIFFMAN \_\_\_\_\_  
MICHAEL BURT  
Attorneys for Defendant David George

Dated: \_\_\_\_\_ J. FRANK McCABE \_\_\_\_\_  
Attorney for Defendant Trearl Malone

Dated: 11/21/06 ERIC QUANDT \_\_\_\_\_  
Attorney for Defendant Keyanya Jones

IT IS SO ORDERED.

Dated: \_\_\_\_\_ MARTIN J. JENKINS \_\_\_\_\_  
United States District Judge